Prison Hospital. The entries made in the nursing notes from February 27, 1981 to March 9, 1981 recorded that she heard no voices, no hallucination and was not deluded. In one of the notes, it was recorded that the first appellant had said that the second appellant had told the former in confidence that she (the second appellant) would pretend to be mad so that she would get a lighter sentence. The second appellant was also recorded to have said that she had felt pity for Ghazali at the time of the killing when Adrian Lim applied electric current on the body of the boy.

Dr. Nagulendran also gave evidence on behalf of the second appellant. He expressed the opinion that at the time she committed the offences, she was suffering from an abnormality of mind, *i.e.* schizophrenia, severe enough to have substantially impaired her mental responsibility for her acts. He said she was suffering from schizophrenia long before she met Adrian Lim. At that time she had a primary delusion, that was that her mother wanted to harm her and had charmed her. After coming under the spell of Adrian Lim her illness rapidly deteriorated so much so that she assaulted her mother in a cruel fashion and had poured urine on her head. This, to Dr. Nagulendran, was evidence of emotional blunting. After Adrian Lim had told her that her stronger spirit had left her and killed her husband, the second appellant claimed that she became depressed.

According to Dr. Nagulendran, the second appellant suffered a relapse after her discharge from the hospital. When Adrian Lim asked her, the second appellant accepted his suggestion and agreed to kill the children because she had developed a secondary delusion, namely that killing was good and approved by Goddess Kali. That evidence had to be contrasted against those of Dr. Kok Lee Peng, Dr. Kua Ee Heok and the entries in the nursing notes produced by the defence.

On the other hand, Dr. Chee Kuan Tsee gave rebuttal evidence for the prosecution. He said that even if she had been suffering from schizophrenia she was in remission at the material times. He said that if the alleged delusions were in fact experienced and if they were so preoccupying as to affect her mental responsibility they would also have affected her ability to work. The evidence was that she was able to work. Considering the second appellant's active participation in the abductions and killings, the disposals of the dead bodies and her mental condition during the period after her arrest when she was kept under observation, Dr. Chee said that these evidence confirmed his view that the second appellant was at the material times in a state of remission.

Counsel for the second appellant questioned the quality of the evidence of Dr. Chee in several respects and submitted that, in consequence, the expert evidence of Dr. Nagulendran should have prevailed. We are unable to accept this submission. Having given this submission our careful consideration, we are also of the opinion that looking at the totality of the evidence the learned trial Judges were entitled to make the findings they did.

For these reasons, both the appeals are dismissed.

Appeals dismissed.

Solicitors: *Francis T. Seow; Nathan Isaac & Co.*

TEAM 108 TECHNICAL SERVICES v. HUJONG ENTERPRISES (PTE.) LTD.

[A.C.J. (Sinnathuray J.) January 3, 1986]

[Singapore – Suit No. 5968 of 1985]

Practice and Procedure – Summary judgment – Unconditional leave to defend – Appeal – R.S.C. 1970, 0.14.

Contract – Claim for balance of price for goods sold – Defence that payments made for third party – Invoices and payment vouchers showing contract between parties.

In this case the plaintiffs applied under Order 14 of the Rules of the Supreme Court 1970 for summary judgment. The defendants, however, were given unconditional leave to defend the action. The plaintiffs appealed. The claim of the plaintiffs is for the sum of $217,398.50 being the balance of the price for goods sold and delivered and services rendered to the defendants by the plaintiffs at the defendants', their servants' or agents' request. After the issue and service of the writ of summons, the defendants made part payment of $1,800 leaving a balance of $215,598.50 still due and owing. The defendants admit that they have from time to time made payments to the plaintiffs in respect of the supply and installation of certain sound and lighting equipment but they contend that all such payments were made for and on behalf of a third party, a company, Entlink Sdn. Bhd. The plaintiffs contended, *inter alia*, that it was expressly or impliedly made known to the plaintiffs that the defendants were the principal contracting party and they will be solely liable for the contracted sum.

Held, allowing the appeal: (1) the quotations, the invoices and the payment vouchers all made it clear that

the contract for the supply and installation of the sound and lighting equipment was between the defendants and plaintiffs;

(2) there was no evidence that the plaintiffs knew at the time of the contract that the defendants were acting as agents for Entlink. There is no reference to this company in any of the documents exhibited to the affidavits.

[*Editorial Note:* The respondent appealed against the decision of Sinnathuray J. (Civil Appeal No. 109 of 1986). The Court of Appeal (Lai Kew Chai & Rajah JJ., & Chan Sek Keong J.C.) dismissed the appeal on October 15, 1986]

Case referred to :

(1) *Pernas Trading Sdn. Bhd.* v. *Persatuan Peladang Bakti Melaka* [1979] 2 M.L.J. 124.

CIVIL SUIT

David Seah for the appellant.
Robert Wong for the respondent.

Cur. Adv. Vult.

Sinnathuray J.: On an appeal by the plaintiffs, in an Order 14 application, where the defendants were given unconditional leave to defend the action, I allowed the appeal and gave judgment for the plaintiffs as claimed and costs. The defendants now appeal.

The claim of the plaintiffs is for the sum of $217,398.50 being the balance of the price for goods sold and delivered and services rendered to the defendants by the plaintiffs at the defendants' their servants' or agents' request. After the issue and service of the writ of summons, the defendants made part payment of $1,800 leaving a balance of $215,598.50 still due and owing.

The defendants admit that they have from time to time made payments to the plaintiffs in respect of the supply and installation of certain sound and lighting equipment, but they contend that all such payments were made for and on behalf of a third party, a company, Entlink Sdn. Bhd. ("Entlink"). In support of their contention, the defendants rely on a letter from the general manager of Entlink written about three weeks before the issue of the writ of summons which reads as follows:

"30th May 1985

To:

The Manager,
Team 108 Technical Services,
19, Marigold Drive,
Singapore 2057

Dear Sir,

RE : Outstanding Amount: Sin $215,598.50

This serves to confirm that the above amount is due to you by Entlink Sdn. Bhd. of No. 4, Lorong Yap Kwan Seng, Off Jalan Yap Kwan Seng, Kuala Lumpur.

Yours sincerely,
For and On Behalf of
ENTLINK SDN. BHD.

Sgd. (Illegible)
General Manager"

To meet the defendants' contention, the managing partner of the plaintiffs made an affidavit in which he has succinctly summarised the following facts:

"a) The agreement to supply and instal the said equipments was made between the defendants and the plaintiffs. At all material times it was expressly and/or impliedly made known to the plaintiffs that the defendants were the principal contracting party and that they will be solely liable for the contracted sum.

b) The defendants pursuant to the said agreement paid a deposit of $50,000.00 and took delivery of the said equipments themselves.

c) Between the periods 25/10/84 to 9/2/85 when the plaintiffs invoices were rendered to the defendants they have made progressive payments without any dispute whatsoever.

d) On or before 21/4/85 they have even requested for statement of the outstanding sum due to the plaintiffs.

(e) At all times prior to the Plaintiffs' Solicitors letter of demand on them they have evinced an unreserved intention to pay the outstanding balance of $217,398.50 due to the Plaintiffs."

At the hearing of the appeal, Mr. Seah for the plaintiffs submitted that these facts clearly show that the defendants were the purchasers of the goods, and therefore, they were personally liable under the contract. He strongly relied on the case of *Pernas Trading Sdn. Bhd.* v. *Persatuan Peladang Bakti Melaka.*[1] This Malaysian case was very much to the point. In this case, the plaintiffs sued the defendants for the balance of the price of goods sold and delivered to the defendants. In their defence, the defendants denied liability and sought to show that the goods were ordered for a third party. The plaintiffs' application for leave to sign final judgment was dismissed by the Registrar and the decision was upheld by the learned High Court Judge. The Federal Court, however, allowed the appeal. The Court held that as the sales invoice and the delivery note plainly showed that the defendants were the purchasers and the receivers of the

goods, even if they were agents for a third party, they were still liable because they were contracting in such form as to make them personally liable.

After hearing both counsel, on the facts before me, I concluded that the plaintiffs in the present case had a stronger case than the plaintiffs in the abovementioned case. On the affidavit evidence, I found that the quotations, the invoices and the payment vouchers, all made it clear that the contract for the supply and installation of the sound and lighting equipment was between the defendants and the plaintiffs. I also found that there was no evidence that the plaintiffs knew at the time of the contract that the defendants were acting as agents for Entlink. Indeed, there is no reference to this company in any of the documents exhibited to the affidavits in these proceedings. As for the letter from Entlink written after notice of demand had been made by the plaintiffs' solicitors, in my opinion, it was not worth the paper written on. It is enough to say that there was no privity of contract between the plaintiffs and Entlink to sustain that letter. For these reasons, I allowed the appeal with costs. The plaintiffs were entitled to enter judgment as claimed in the writ of summons.

Appeal allowed.

Solicitors : *David Seah & Co.; Khattar Wong & Partners.*

TAN KWEE HAK v. PUBLIC PROSECUTOR

[A.Cr.J. (Wee Chong Jin C.J.) April 23, 1986]

[Singapore – Magistrate's Appeals Nos. 282 & 285 of 1984]

Penal Code, s. 279 – Driving in a rash manner – Appeal against conviction and sentence – Forfeiture of car – Appeal against forfeiture – Hire-purchase agreement – Whether terminated – Who should get the car – Penal Code (Cap. 103), s.279 – Criminal Procedure Code (Cap. 113), s. 385.

Hire-purchase – Termination of agreement on conviction of hirer – Forfeiture of car – Question of ownership.

Criminal Law and Procedure – Forfeiture of car – Car under hire – Criminal Procedure Code (Cap. 113), s. 385.

The appellant appealed against his conviction and sentence by a Magistrate's Court on a charge of driving a motor car in a manner so rash as to endanger human life, an offence under section 279 of the Penal Code. He was sentenced to five weeks' imprisonment and disqualified from obtaining or holding a driver's licence in respect of all classes of vehicles for five years. The Magistrate also ordered forfeiture of the car under section 385 of the Criminal Procedure Code. The appellant appealed against the forfeiture order. When the prosecution applied for a forfeiture order of the car, Orient Consumers Credit Pte Ltd applied to be heard on the question of forfeiture. It was contended by the company that in accordance with the terms of the Hire-purchase Agreement under which the car was hired out, the agreement had been duly terminated and submitted that the car should not be forfeited but ought to be returned to the company. The company appealed against the forfeiture order.

Held: (1) the trial judge was entitled to find the appellant, Tan Kwee Hak, guilty of the offence charged on all the evidence before him. The appeal against conviction is dismissed;

(2) in the circumstances of the present case the appeal against sentence is allowed. The sentence is set aside and a fine of $1000 is substituted therefor. The order of disqualification is reduced to 3 years;

(3) in all the circumstances of the case, the order of forfeiture should not have been made. The proper order to be made under section 385(2) of the Criminal Procedure Code is that the motor car should be delivered to Orient Consumers Credit Pte Ltd.

MAGISTRATE APPEALS.

M. H. Rubin for the appellant (in Magistrate's Appeal No. 282).

J. Low (Miss) for the appellant (in Magistrate's Appeal No. 285).

Michael Khoo (Deputy Public Prosecutor) for the respondent.

Cur. Adv. Vult.

Wee Chong Jin C.J. : The appellant in Magistrate's Appeal No. 282 of 1984, Tan Kwee Hak, appeals against his conviction and sentence by a Magistrate's Court on a charge of driving a motor car, a RXY Mazda No EQ 7967R in a manner so rash as to endanger human life, an offence under section 279 of the Penal Code. He was sentenced to five weeks imprisonment and disqualified from obtaining or holding a driving licence in respect of all classes of vehicles for five years.

After the appellant was convicted the prosecution applied for a forfeiture order of the motor car in question. The appellant opposed the application and contended that he was the owner and submitted that the motor car be returned to him. Orient Consumers Credit Pte. Ltd. applied to be heard on the question of forfeiture and it was contended on its behalf that in accordance with the terms of a Hire Purchase Agreement, the agreement had been duly terminated and submitted that the motor car